

ENTERED

August 31, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISIONVALERIE LOY, On Behalf of HERSELF
and All Others Similarly Situated,

Plaintiffs,

VS.

REHAB SYNERGIES, LLC,

Defendant.

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CIVIL ACTION NO. 7:18-cv-00004

ORDER

The Court now considers “Defendant’s Objection and Motion to Strike Plaintiffs’ Declaration of Jerry Martin;”¹ Plaintiffs’ response;² and Defendant’s reply.³ In Defendant’s motion, it moves to strike the sworn declaration of Plaintiffs’ Counsel Jerry Martin⁴ provided in support of Plaintiffs’ responses to Defendant’s various dispositive motions.⁵ The motion is ripe for consideration.

The affidavit of Plaintiffs’ Counsel Jerry Martin basically attests to the discovery history of the case.⁶ In support of its motion, Defendant argues that “the Declaration has no relevance to any of the issues at hand in the Motions”⁷ and that Martin’s testimony in the declaration lacks personal knowledge and is “unsupported, conclusory, speculative and self-serving.”⁸ Defendant further argues that the Declaration is not competent evidence in opposition to summary judgment

¹ Dkt. No. 74.

² Dkt. Nos. 76.

³ Dkt. Nos. 77.

⁴ Dkt. Nos. 66-1, 67-1, 68-1, & 69-1 (although offered four times, it is the same affidavit).

⁵ See Dkt. Nos. 58–59, 61–62.

⁶ Dkt. Nos. 66-1, 67-1, 68-1, & 69-1.

⁷ *Id.* at 1–2 (citing FED. R. EVID. 401).

⁸ Dkt. No. 74 at 1 & 5.

under Rule 56(c)(4).⁹ Lastly, Defendant argues that the Declaration is “improper because it would require Defendant to waive attorney-client privilege and/or work product protection to properly refute it.”¹⁰ The Court generally agrees that the affidavit is irrelevant to any issues raised in the pending motions and therefore **GRANTS** Defendant’s motion to strike.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 31st day of August 2021.

A handwritten signature in black ink, appearing to read "M. Alvarez", is written over a horizontal line.

Micaela Alvarez
United States District Judge

⁹ *Id.* at 3.

¹⁰ *Id.* at 2 & 7.